



FILED & JUDGMENT ENTERED Steven T. Salata
Feb 24 2016
Clerk, U.S. Bankruptcy Court Western District of North Carolina

Laura T Beyer
Laura T. Beyer
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:)
)
JAMIE CHARMANE MOSS,) CASE NO. 15-31146
) CHAPTER 13
DEBTOR.)

**CONSENT ORDER RESOLVING MOTION FOR, AMONG OTHER THINGS,
RELIEF FROM THE AUTOMATIC AND CO-DEBTOR STAYS**

THIS CAUSE comes on before the Court upon the Motion For, Among Other Things, Relief From The Automatic And Co-Debtor Stays (herein the "Motion") filed on behalf of Santander Consumer USA Inc. (herein "Santander"). The parties have agreed to resolve the Motion on the terms set forth herein, to which the Trustee has no objection, as evidenced by their respective signatures set forth below. After having reviewed the Motion and the record in this case, the Court hereby approves the proposed settlement.

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. That relative to the 2008 Nissan Altima, VIN #1N4AL21E98N404212 (herein the "Vehicle"), the Motion be conditionally denied subject to the terms and conditions set forth herein; and

2. That the Debtor shall resume timely making each of the remaining monthly payments due under the Chapter 13 Plan, beginning with the payment due for February 2016; and

3. That Santander's allowed secured claim in the Chapter 13 Plan for the Vehicle shall be increased by the amount of \$426.00 to reimburse Santander for the reasonable attorneys' fees and costs incurred by it in connection with the Motion; and

4. That the Trustee is authorized to extend the term and/or modify the base amount of the Chapter 13 Plan as necessary to cure the current default in Plan payments and accommodate payment to Santander of the increased secured claim set forth above; and

5. That from the on-going monthly Plan payments by the Debtor, the Trustee shall make disbursements to Santander on its secured claim for the Vehicle in the amount of at least \$150.00 per month, beginning in March 2016, and continue such disbursements until the time the conduit payments on the Debtor's mortgage(s) are current, at which time the Trustee shall resume paying Santander its regular monthly *pro rata* share of all monies available for secured claims; and

6. That for a period of twelve (12) months after entry of this Consent Order, should the Debtor fail to make any payment due to the Chapter 13 Trustee's office under the terms the Chapter 13 Plan [as amended from time to time] by 5:00 p.m. on the last business day of the month in which it is due, then the automatic and co-debtor stays of 11 U.S.C. §§362(a) and 1301(c) should be, and hereby are, immediately lifted and modified to permit Santander to repossess and foreclose upon its senior security interest in the Vehicle under applicable law, and to thereafter pursue the Co-Debtor for any amounts which may remain due under the Contract after sale of the Vehicle; and

7. That should relief from the automatic and co-debtor stays be lifted pursuant to the terms of this Consent Order, then Santander shall have 120 days from the lifting of the stay to file a deficiency claim for any balance remaining due under the Contract after sale of the Vehicle; and

8. That the Debtor's attorney is hereby allowed a non-base legal fee of \$450.00 to be paid through the Chapter 13 Plan and the Trustee is hereby authorized to extend the term or increase the base amount of the Chapter 13 Plan as necessary to accommodate such payment to the Debtor's attorney; and

9. That should Santander recover the Vehicle pursuant to paragraph 6 above, Santander shall have 10 days from the recovery of the Vehicle to notify the Chapter 13 Trustee in writing of same: and

10. That time is of the essence as to each and all of the provisions of this Consent Order; and

11. This Court shall, and hereby does, retain jurisdiction over this matter, the parties hereto, and the subject matter hereof, to the extent permitted under applicable law, for the entry of such other and further orders as are either necessary or appropriate to accomplish the foregoing.

CONSENTED TO AND ACCEPTED:

KIRSCHBAUM, NANNEY, KEENAN & GRIFFIN, P.A.

By:/s/ Pamela P. Keenan

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By:/s/ Robert H. Gourley, Jr.

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“NO OBJECTION”

By:/s/ Warren L. Tadlock

Warren L. Tadlock
Chapter 13 Trustee
5970 Fairview Rd., Ste. 650
Charlotte, NC 28210

This Order has been signed electronically.
The Judge's signature and Court's seal appear
at the top of the Order.

United States Bankruptcy Court